IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1128 OF 2004

T.D. Joseph .. Petitioner.

vs.

A.W. Wadia Charity Trust

P.T.R.No.E-470 (Bom) & Ors. .. Respondents.

Mr. N. A. Kadam for petitioner.

Mr. Praveen Diwan with Ahmed Sayyed & Amitha Poojari i/by M/s. Dhru & Co. for R. Nos. 1 to 6.

Mr. Umesh Shetty i/by Umesh Shetty & Co. for R. No. 7.

Mr. A.P. Vanarse, AGP., for respondent no.8.

CORAM : S.U. KAMDAR, J.

DATE : 1st December, 2005.

P.C.:

. By the present petition the petitioner is challenging the order passed by the Charity Commissioner sanctioning the scheme under Section 36 of the Bombay Public Trust Act. The only ground of challenge is that the case of the petitioner is not considered that his offer was higher at Rs.

2,50,00,000/- than the Samata Industrial Developers of Rs. 2,07,00,000/- in whose favour sanction was granted by the Charity Commissioner by the impugned order. However, the learned counsel for the petitioner fairly conceded that he was not the original bidder pursuant to the advertisement and only appeared on the scene at the belated stage when the application was made to the Charity Commissioner. It has also been accepted that he did not give the demand draft but he contends that he sought to deposit the cheque with the Charity Commissioner but they did not accept the same.

2. However, my attention was drawn to the order passed by the Division Bench in Writ Petition No. 1848 of 2005 dated 19.10.2005 in which also inter alia the order challenged is sanction granted under section 36 (2) of the Bombay Public Trusts Act and one of the ground was that the property was sold at the lower price than that of the petitioner which was also Rs. 2,50,00,000/- The Division Bench in its order has come to the conclusion that the valuation was carried out by the Government approved valuer and which was only Rs. 1 crore and no other person gave higher bid and, therefore, the order of the Charity Commissioner cannot be faulted. In the writ jurisdiction under Article 226 of the Constitution of India I do not find this case a fit one to be interfered with. Writ Petition is

dismissed accordingly. No order as to costs.